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ARELLO Spotlight: Executive Director Dee Jones Noordermeer Retires

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ARELLO congratulates real estate regulator and steadfast ARELLO volunteer, Dee Jones Noordermeer, on her retirement from the South Dakota Real Estate Commission effective June 8, 2011. Her distinguished 22-year career with the Commission encompasses numerous accomplishments, including a lengthy list of contributions to ARELLO.

Actually, Dee's public service career spans 34 years, as she served as a school district accountant prior to joining the Commission. She began her career with the Commission as an auditor/investigator and accountant. After serving as the agency's first director of education, she was appointed as the executive director in 2003. Among her many accomplishments, Dee was instrumental in bringing methamphetamine awareness to the real estate industry. In 2005, the South Dakota Real Estate Commission received the ARELLO Continuing Education Course of the Year award for "Meth-It's Closer Than You Think". The course was the first of its kind to be sponsored by a state agency and presented to real estate professionals. Dee also successfully led the commission efficiently and quickly through a U.S. Department of Justice examination of the commission's restrictions on consumer rebates/inducements, a potentially complex, expensive and time consuming process that has been faced by several other ARELLO member jurisdictions over the years.

Dee's contributions to ARELLO include serving on the Board of Directors and as a member, chair or co-chair of over two dozen ARELLO work groups, task forces and committees in a wide range of disciplines and, in some cases, for multiple terms. Dee holds the prestigious "ARELLO Certified Real Estate Investigator" designation is also a "Certified Investigator of the Council of Licensure, Enforcement and Regulation" (CLEAR). She is a co-author of ARELLO's investigator training manual and has been a presenter at ARELLO's annual investigator training workshop. She also has been a presenter at the Real Estate Educators Association's annual conference and a contributing author for the REEA Journal.

Of her retirement, Dee commented that, "I can attest to Teresa Hoffman's motto when she was ARELLO's president that "Public Service is a Noble Pursuit!"

ARELLO's members, associates and staff extend a heartfelt *Thank You* to Dee and wish she and her husband Bill, who also recently retired, a happy relocation to their cabin in the Black Hills of South Dakota.

Editor's Note: ARELLO® is the Association of Real Estate License Law Officials, comprised of the official governmental agencies and other organizations around the world that issue real estate licenses or registrations in addition to regulating real estate practice and enforcing real estate law.

Dee's presence on various committees and in advisory positions within ARELLO has been invaluable. Over the years, she worked to ensure that the South Dakota Real Estate Commission's interests were heard at the national/international level and represented the Commission with professionalism and integrity.



From the Director's Desk

By now you have probably heard that after 22 years with the Commission and a total of 34 years of public service, I have announced my retirement. I am grateful for the opportunity to serve the citizens of South Dakota.

My last day with the Commission is June 8th and on June 9th, I'll be like the old cowhand riding his horse into the sunset. The only difference is I will be in my Suburban with my husband and two yellow labs. We will, however, be heading west where we will be relocating to our cabin in the Black Hills.

Working for the Commission has been a wonderful experience. I thank the Commissioners for affording me both professional and personal growth. I also admire them for the giving of their time, their professionalism and their dedication to the work of the Commission. I express gratitude to my dedicated staff — Norma, Karen, Michelle and Brian — who work hard and are willing to go the extra mile, projecting a positive image of the Commission. And, thanks to all you licensees and professional associations for the respect you have given me throughout my tenure with the Commission.

I will take many memories with me and will miss all of you.

DjN

We would like to thank Dee for the many wonderful years in which we have worked together. Her guidance, personality and sense of humor around the office will be missed. Fortunately, our friendships with her will continue on. We wish Dee the very best!

***Norma Schilling, Michelle Metzinger,
Karen Callahan, Brian Jackson***

Commission Approves Changes to Forms

At the May 4 & 5 meeting, the commission approved changes to the Agency Agreement Addendum and Residential Purchase Agreement forms. The changes are effective immediately.

Section II of the Agency Agreement Addendum was changed to the following: "... In an appointed agency relationship, the responsible broker and, if applicable, the responsible broker's designated broker will act in a limited agency capacity."

A "not applicable" option was also added to the broker instructions in the box at the bottom of the form for those cases when a broker does not offer appointed or limited agency.

The Purchase Agreement form has been modified to allow the parties to the transaction to define where the earnest money will be held.

The updated forms are available on the SDREC website. Licensees do not need to have clients who have already entered into agreements re-sign the new forms, however, when negotiating with future clients, the new forms should be used.

New Laws Take Effect July 1

Several bills passed by the legislature will go into effect July 1.

Senate Bill 47 will remove the requirement that a responsible broker must own an equal or majority interest in a brokerage firm. By eliminating the current ownership requirements, the new law will require that only individuals who are actively engaged in the practice of real estate in South Dakota will be required to have a license. Another benefit of this change in law is that a real estate firm would not have to shut down if a responsible broker is placed on inactive status or fails to renew his or her license. In these instances, a new responsible broker, with or without an ownership in the company, can be assigned so that the firm operations can continue to operate.

Senate Bill 49 will allow the Commission to commence injunction

proceedings for individuals who are practicing real estate in South Dakota without a license. The injunction would be a court order demanding the unlicensed individual cease activity. It will also allow the Commission to go after the individual to recover costs incurred during the investigation and/or injunction process.

Senate Bill 70 deals with private mortgage transfer fees. A summary of its requirements includes:

1) Any private transfer fee obligation recorded after June 30, 2011, does not run with the title to real property and is not binding on subsequent purchasers;

2) Any existing private transfer fee obligation recorded prior to July 1, 2011, must be disclosed on the Sellers Property Condition Disclosure Statement, if one is required. For transfers whereby the Property Disclosure Statement is not required (examples: foreclosed properties, estates), the seller must furnish to any purchaser a written statement disclosing the existence of any private transfer fee obligation.

3) For any existing private transfer fee that was imposed prior to July 1, 2011, the payee (receiver of the fee) must file a "Notice of Private Transfer Fee Obligation" with the register of deeds in the county in which the property subject to the transfer fee is located. The new law(s) require many specific elements that must be included in this notice. The receiver of the fee must file this document by Dec. 31, 2011.

4) If the payee does not comply with the "Notice" requirements (of #3), the grantor of the real property is deemed to act in good faith and the real property can be conveyed free and clear of the private transfer fee obligations.

It is important to note that this bill will bring changes to the Sellers Property Condition Disclosure Statement. The updated form will be posted on the SDREC website on July 1. The Commission office advises licensees to have their sellers complete a new disclosure statement for any properties not already under contract. Although the change to the form is minor, it is in the best interest of the seller to complete a new form to reduce their risk of liability. The commission office cannot give legal advice to licensees regarding whether or not an addendum containing the new information would suffice in a court of law if the disclosure form is disputed.



Commission Chair Paula Lewis (left) presents a plaque to Eileen Fischer (right).

Fischer Honored as Commissioner

Eileen Fischer of Fort Pierre was recently honored for her service as a Commission member.

Fischer was appointed to the Commission in 2004 by Governor M. Michael Rounds. She served as Commission Chair from July 1, 2008, to June 30, 2009. Thank you, Eileen!

Schipper Named Interim Director

Department of Labor and Regulation Secretary Pam Roberts has appointed Lloyd Schipper of Pierre as Interim Director of the SD Real Estate Commission. He will serve in this capacity until a new executive director is named.

Schipper is currently the Chairman of the Board of Commissioners for the SD Housing Development Authority. In 2006, he retired from his position as Deputy Secretary of the Department of Labor, after serving state government for 27 years. Welcome, Lloyd!

Calendar of Events

July 4

SDREC Office Closed
(Independence Day Holiday)

Communicating with an Appraiser

By Nikole M. Avers,
Executive Director,
Tennessee Real Estate Appraiser
Commission

The economy and the related mortgage lending crisis have led to many changes in the lending and real estate appraisal industry. As the director of the TN Real Estate Appraiser Commission, I take a lot of calls from appraisers and users of appraiser services pertaining to these changes. Questions pertaining to changes resulting from the Home Valuation Code of Conduct (HVCC) which developed into the Appraiser Independence Requirements (AIR), federal changes with the **Dodd-Frank** Wall Street Reform and Consumer Protection Act, Title XIV - Mortgage Reform and Anti-Predatory Lending Act, the Fed's [Regulation Z](#) (the regulation used to implement various sections of the [Truth in Lending Act](#)), regulation of Appraisal Management Companies, and changes in the FHA requirements. Whew! After all that it is easy to be confused and feel the need to catch your breath. One issue keeps rising to the surface again and again- how to communicate with an appraiser in the aftermath of all the changes we have gone through in the past two years.

Appraisal independence has been at the heart of almost every substantive change that affects users of appraiser services. Federal law, State law, and secondary market requirements have long had requirements pertaining to appraisal independence. The mortgage crisis and the difficult economic climate have caused the market participants to establish additional safeguard requirements to preserve this independence. From these requirements many myths were born. Do the changes mean you can't talk to an appraiser? No. Communication is critical to the appraisal process – entire appraisal standards are devoted to it – and communication is not a one way street.

USPAP requires that an appraiser protect the confidential nature of the appraiser-client relationship. The appraiser must not disclose confidential

information or assignment results to anyone other than the client, persons authorized by the client to receive this information; state appraiser regulatory agencies, third parties authorized by due process of the law, or authorized peer review committees. See USPAP ETHICS RULE – Confidentiality Section, and the DEFINITIONS section for [Assignment Results](#) and [Confidential Information](#) for more detail. This requirement pertains to what an appraiser may communicate to others, not what information users of appraisal services may transmit to the appraiser.

Many have misinterpreted the HVCC requirements to have banned mortgage loan officers and real estate agents from speaking with a real estate appraiser. Some have indicated that FHA prohibits communication with real estate appraisers. Still others believe there is a prohibition in federal law, but there isn't. There are requirements to preserve appraiser independence and protect the public.

There is no prohibition for communicating with a real estate appraiser. FHA specifically requires that the lender and the appraiser "avoid even the appearance of a conflict of interest, which would include providing the appraiser anything of value in consideration of returning the appraisal at a given value," and "that (the lender) may not condition continued selection of an appraiser on inflating values or disregarding repair requirements." For a more detailed list of prohibited activities by FHA concerning appraiser independence, please visit their website and read mortgage letter 09-26:

<http://www.hud.gov/offices/adm/hudclips/letters/mortgagee/files/09-28ml.pdf>

The HVCC did not prohibit communication with a real estate appraiser, it required the loan production staff not have "substantive communications with an appraiser or appraisal management company relating to or having an impact on valuation, including ordering or managing an appraisal assignment." The loan production staff and the staff of an appraisal management company may communicate with the appraiser to correct factual errors on the appraisal report. The HVCC did not prohibit real estate agents or brokers from communicating with an appraiser. They are allowed to communicate with an appraiser as long as

the communication was not done in a way intended to influence the outcome of the appraisal. Appraisers may receive information from others on information pertaining to the subject and market data information such as: relevant property information such as condition, improvements, deferred maintenance and amenities; income and cost data; closed and pending sales data; conditions of sale and seller concession information; and builder or inspection information. The HVCC pertained only to 1-4 family loans that lenders sold to Fannie Mae or Freddie Mac. The Federal Housing Finance Agency (FHFA), Fannie Mae, Freddie Mac and others developed the Appraiser Independence Requirements (AIR) which replaced the HVCC on October 15, 2010. Fannie Mae issued a FAQ on these changes in November of 2010, a link to that FAQ can be found at: <https://www.efanniemae.com/sf/guides/ssg/relatedsellinginfo/appcode/pdf/airfaqs.pdf>

Recommendations for Communicating with an appraiser:

1) Communicate by e-mail or written correspondence whenever possible. Written communication has the benefit of documenting the exchange between an appraiser and a user of appraisal services. You may wish to indicate you are communicating by letter or e-mail to preserve the appraiser's independence. It is not a violation to place a phone call to an appraiser, but in my experience you will have more success if the communication is in writing, especially if you do not have an established professional relationship with the appraiser.

2) Determine your objective before you begin writing. Take your time with the correspondence to ensure only the specific and necessary information is communicated. Be brief and to the point.

3) Be professional. Whenever possible, use appropriate terminology to the lending and real estate industry. This will set the tone for a professional response. No one expects you to be 100% knowledgeable of appraisal methodology or techniques, but if you can specifically identify the areas of concern, the appraiser will be able to respond to your specific concerns. Avoid sending off emails or letters before proof-reading them for spelling accuracy and tone.

4) Don't send an angry e-mail or letter to an appraiser. It won't likely help the situation if the appraiser finds the communication offensive or disrespectful. Sending an e-mail in all capital letters can set the tone that you are "yelling" at them. If you wish to dispute information contained in an appraisal report, be specific and professional. Mistakes can happen and my experience is that a professional will want to correct an error.

5) Avoid opining on the "value" of the property. Rendering an opinion of value is the reason the appraiser was engaged. Telling an appraiser what you think the value of a property should be will be the fastest way to have them close the communication door. Do not communicate in a manner that impairs or attempts to impair an appraiser's independence, objectivity or impartiality.

6) Just the facts. If you have information you want the appraiser to consider, present it as information. Acknowledge in your correspondence that it is the appraiser's decision to determine if the information is relevant to the appraisal assignment.

7) If an appraiser is hesitant to respond to communication, reference the specific independence requirements pertaining to the transaction. For example, if the appraisal is an FHA appraisal, provide them with the link to the above mortgage letter on appraisal independence. If the appraisal is for Fannie Mae or Freddie Mac reference the link to the above Fannie Mae frequently asked question link on appraisal independence. Many appraisers have fallen victims to the myths created pertaining to appraiser communication; they may not know their specific allowances for communication.

8) Be patient. If you want a well thought out response or reconsideration, it may take time. If you are concerned about them not receiving your information, you may want to indicate in your communication, "Please let me know you have received this inquiry/information and, if possible, a time frame for your response."

As an appraiser, a lender's review appraiser, and as a regulatory official, I have been privy to both sides of the conversation. Appraisers communicate for a living; the tricky part is knowing how to

start the conversation. I hope the above tips help in beginning that conversation.

Nikole Avers is the Executive Director of the Tennessee Real Estate Appraiser Commission. She is a Certified Residential Real Estate Appraiser with experience in real estate appraisal, appraisal review and teaching appraisal courses. She is an AQB certified USPAP instructor and she contributed as a subject matter expert for the AQB on the 2008 and 2009 National Real Property Appraiser Examinations. Nikole is currently the chair of the AARO ASB oversight committee.

1099 Reporting Requirements Repealed

(used with permission from ARELLO)

U.S. President Barack Obama has signed H.R. 4, a bill that repeals two Internal Revenue Service reporting laws that have been widely criticized as being unnecessarily burdensome to small businesses. The first was contained in the 2010 U.S. health care reform legislation and would have required the issuance of a 1099 form to all vendors, including corporations, from whom at least \$600 of goods and services were purchased, with a copy to be sent to the IRS. The second was contained in the "Small Business Jobs Act of 2010" and expanded the scope of a similar, existing reporting for those in the trade or business of renting real estate to include all persons who receive rental income.

Licensed Assistants

The Commission would like to remind those individuals, who have an active real estate license and are working in the capacity of a licensed assistant to another broker/broker associate, that they owe the same fiduciary duties to the client as does the broker or broker associate who is that client's agent.

The activities of the licensed assistant also fall under the supervision of the responsible broker of the brokerage firm.

Nebraska's Agency Duty Exemptions for Licensees Working with AMCs

(used with permission from ARELLO)

Nebraska has enacted new statutes that provide limited exemptions from the state's real estate agency relationship statutes for licensees who work with asset management companies (AMCs). According to legislative records and the Nebraska Real Estate Commission's *Commission Comment* newsletter, real estate licensees in the state have been encountering ongoing problems with AMCs that handle, under a power of attorney or other contractual arrangement, the sale of properties for large institutional mortgage holders such as banks, Fannie Mae, HUD, etc. AMCs will generally list such properties with real estate licensees, but require the use of a listing agreement and transaction model that may not conform to Nebraska's real estate agency laws. Nebraska LB 25 creates narrow exemptions that allow licensees to work with these companies without violating the license laws.

The first of the two exemptions relieves licensees working in an agency capacity with sellers, landlords, buyers or tenants from the statutory responsibility of "presenting all written offers to and from the client in a timely manner regardless of whether the property is subject to a contract for sale or lease or a letter of intent to lease", if the client to whom the written offer is required to be presented by the licensee is an asset management company. The second relieves licensees who are working as agents for AMC sellers or landlords from stating, in the listing agreement, the duties that are otherwise required by Nebraska's agency relationship statutes.

Director of the Nebraska Real Estate Commission, Greg Lemon, stated that Nebraska has seen an increase in the number of properties for sale by asset management companies and also more questions from licensees as to how to work with these companies and still comply with the license laws. Because the exemptions provided in the new law apply

to asset management companies only, the protections afforded the general public by these laws are not compromised, and licensees can work on transactions with the AMCs and stay in compliance with the law. The bill was passed with no opposition.

LB 25 defines an AMC as a "business firm or association that, pursuant to a contractual agreement, common-law agency agreement, power of attorney, or other legal authorization, sells, conveys, or otherwise offers an interest in real property that belongs to a (1) bank, savings and loan association, or other financial institution created and regulated pursuant to state or federal law, (2) mortgage-holding entity chartered by Congress, or (3) federal, state, or local governmental entity."

More information is available through the Nebraska Real Estate Commission web site.

New Licensees

The SDREC would like to welcome the following new licensees:

Broker

Bride, James F – Roseville, IL
Hansen, Robert L – Omaha, NE
Kelly, Brett C – Kalispell, MT
Kirby, Ronald R – Alvaton, KY
Nofziger, Kenneth A – Champaign, IL
Paulson, Michael H – Sioux Falls

Broker Associate

Bird, Roger K – Milbank
Crumb, Robert J – Rapid City
Denker, Jacob P – Rapid City
Deslauriers, Daniel R – Mitchell
Dockter, Chad A – Watertown
Engelstad, Brandon – Hendricks, MN
Hansen, Pamela J – Rapid City
Hanson, Gary D – Sisseton
Horner, Alethia M – Aberdeen
Korkow, Sandra K – Springfield
Lewison, Elizabeth M – Vermillion
McInroy, Scott A – Watertown
Meisner, Kelsey R – Rapid City
Mimmack, John W – Sioux Falls
Mueller, Ambre M – Sioux Falls
Olson, Lori J – Sioux Falls
Peschong, Kyle – Mitchell
Peschong, Stephen M – Mitchell
Phillips, William C – Sioux Falls
Rieffenberger, Jordan L – Sioux Falls

Schad, Marina V – Rapid City
Sweets, Jonathan A – Sioux Falls
Torguson, Diana – Huron
Uhre, Joshua L – Rapid City

Home Inspector

Banks, Brad R – Rapid City

Residential Rental Agent

French, Amanda – Sioux Falls
Ranek, Amber – Spearfish
Ross, Justin P – Sioux Falls
Wattier, Kenneth A – Dell Rapids

Salesperson

Schum, Kenneth M – Sidney, IL

Timeshare Agent

Askland, Lauren M – Rapid City
Fuhrmann, Tiara J – Rapid City
Kirchner, Joshua – Rapid City

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Articles by outside experts express the author's particular viewpoints. These opinions are not necessarily shared by the Commission, nor should they be mistaken for official policy. The articles are included because they may be of interest to the readers.

APPRAISER UPDATE

This section of the South Dakota Real Estate Review is the responsibility of the South Dakota Department of Labor and Regulation Appraiser Certification Program. Articles are printed here to communicate pertinent information to those appraisers who receive this newsletter and are licensed under the Certification Program.



**Sherry Bren,
Executive Director
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Appraiser Certification Program Mission– Purpose–Intent

The Appraiser Certification Program was implemented July 1, 1990, pursuant to enactment of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) by Congress. The mission of the Program is to certify, license and register appraisers to perform real estate appraisals in the state of South Dakota pursuant to Title XI (FIRREA). The purpose of the Program is to examine candidates, issue certificates, investigate and administer disciplinary actions to persons in violation of the rules, statutes and uniform standards, and approve qualifying and continuing education courses. Title XI intends that States supervise all of the activities and practices of persons who are certified or licensed to perform real estate appraisals through effective regulation, supervision and discipline to assure their professional competence.

Appraiser Certification Program Advisory Council

Council members provide recommendations to the Secretary of the Department of Labor and Regulation in the areas of program administration in order to sustain a program that is

consistent with Title XI. The Council meets quarterly in public forum. See the Website for meeting information.
www.state.sd.us/appraisers

Advisory Council Members Retire from Their Positions with State Government

Roger Novotny, Director of the Division of Banking, and Dee Jones Noordermeer, Executive Director of the Real Estate Commission, retired recently from their respective positions with state government. The Department staff and the Advisory Council members wish to extend thanks and gratitude to Roger and Dee for their many years of service on the Appraiser Certification Program Advisory Council and wish them the best in their retirement. Dee has served on the Council since 2003, and Roger has served since 2004.

New Licensees – April/May 2011

Michael W. Teel, State-Certified
Residential – Gary, IN
Carl T. Risty, State-Registered –
Sioux Falls, SD
Garth L. Ligtenberg, State-Registered
– Piedmont, SD
Gregory R. Tritle, State-Certified
General – Sanborn, IA

Information Regarding Disciplinary Actions

Public information regarding disciplinary action taken against an

appraiser is available upon written request to the Department of Labor and Regulation, Appraiser Certification Program, 445 East Capitol Avenue, Pierre, SD 57501 or e-mail – Sherry.Bren@state.sd.us. Include in the request for information the name of the appraiser and the appraiser's city and state of residence. (Disciplinary action may include denial, suspension, censure, reprimand, or revocation of a certificate by the department. (ARSD 20:14:11:03))

Anonymous Complaints

ARSD 20:14:11:01.01. Anonymous complaints. Initiation of an investigation may be commenced upon receipt of an anonymous complaint if it meets the following criteria:

(1) The allegations of violations of any provision of this article are considered credible and based upon factual information which is independently verifiable; and

(2) The complaint is accompanied by a copy of the appraisal report or other documents which contain clearly identifiable errors or violations of the provisions of this article.

Review of Cases – January 1, 2011, through May 5, 2011

For the period January 1, 2011, through May 5, 2011, the Department has received three upgrade applications and initiated nine complaint investigations.

Upgrades – three pending.

Complaints – eight pending and one dismissed.

Upgrades – April 1, 2011, through May 23, 2011

William Bear, State-Certified
Residential

Frank Weatherwax, State-Certified
Residential

2011 Renewal

The 2011 renewal applications will be mailed the first week in July. In order to renew your certificate for state-certified general, state-certified residential, state-licensed and state-registered appraiser you must submit the completed application, applicable renewal fees and verification of the required 28 hours of approved continuing education which includes the 7-hour National USPAP update course by August 17, 2011. [Pursuant to ARSD 20:14:13:01 the 2010-2011 edition of the 7-hour National USPAP update course must have been completed prior to June 30, 2010. If the course was not completed by June 30, 2010, the applicant will be assessed a \$100 administrative penalty fee.]

Appraisal Management Companies to be Registered and Supervised in South Dakota

Effective July 1, 2011, any person or entity acting as an appraisal management company or performing appraisal management services in this state, with limited exceptions, shall register with the Department of Labor and Regulation. The statutes regarding registration and supervision of Appraisal Management

Companies may be found on the Appraiser Certification Program website at www.state.sd.us/appraisers.

Distance Education versus Classroom Education

The Appraiser Certification Program uses two terms, distance and classroom, for acceptable education delivery methods when prescribing education in matters of complaint and upgrade disposition of cases.

Distance education is defined by the Appraisal Foundation's Appraiser Qualifications Board in the Real Property Appraiser Qualification Criteria as follows:

Distance Education is any education process based on the geographical separation of student and instructor.

Students completing distance education are not physically present in a traditional educational setting such as a classroom.

Classroom education, as used by the Appraiser Certification Program, is a class offered in the traditional classroom in which teaching or learning activities take place with the instructor and a body of students present in the room.

If education is prescribed for remedial action in a matter of complaint or upgrade, please make sure to complete the education in the specified delivery method. If you have questions, please contact Sherry Bren at 605.773.4608.

Understanding the Appraisal Review Process

*Courtesy of the Oregon Appraiser
Certification and Licensure Board.
Article reprinted from the Oregon
Appraiser Newsletter – Spring 2011
Edition.*

So much of what appraisers do is associated with unique definitions, terminology, acronyms and jargon. Consequently, how we describe certain professional activities is occasionally misunderstood by clients and,

unfortunately, appraisal practitioners. One such area of practice that can be confusing is the appraisal review process. There are two critical definitions that serve to clarify what the review process is and how it is to be conducted. First, the USPAP definition of an appraisal review:

"The act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal, appraisal review or appraisal consulting assignment."

The key word of the definition is "quality". What constitutes the definition of quality is largely found in USPAP Standard Rule 3-3(a) which identifies the reviewer's scope of work and the fundamental elements of an appraisal review. The term of art that establishes the minimum performance standard is "credible". Essentially, does the appraisal under review comply with the scope of work associated with the assignment while concurrently presenting a reasoned analysis based upon relevant market data which lends to a supportable value opinion? If not, then the review scope of work requires a discussion as to why a different position has been taken by the reviewer in accordance with SR 3-3(b). The review scope of work may also require the development of an opinion of value consistent with SR 3-3(c), in which case Standard Rule 1 becomes the performance baseline.

The rules pertaining to review are well defined and structured, thus the review process should be relatively straightforward. However, problems associated with the review process often occur when the reviewer provides an opinion of value. That brings us to the second critical definition. According to USPAP, an appraisal is:

"The act or process of developing an opinion of value, of or pertaining to appraising and related functions Numerically expressed as a specific amount, as a range of numbers or as a relationship to a previous value opinion or numerical benchmark..."

If an opinion of value is a relationship to another value opinion, consider an appraisal review which states

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that “the value reported is unsupported and appears high” or “the capitalization rate is overstated”. How about “the adjustments applied appear unsupported and cumulatively result in an overstated value opinion”? In each instance the reviewer has indirectly reported a value opinion (appraisal). Without going through the steps of developing and supporting that value opinion consistent with applicable elements of SR 1 and SR 3-3(c), there is an obvious and substantive USPAP compliance issue.

What about a conversation wherein an appraiser makes a statement that “I read that appraisal and it was terrible”,

or “that appraiser is always high and this appraisal is likely to be no exception”? consider “I would have used a higher vacancy factor which would have resulted in a lower income approach value and lower overall value opinion.” In each instance, an appraisal review was conducted which imposes compliance with SR 3-3(c). Finally, if you disagree with a review of your work, then your response must also comply with Standard Rule 3 because it is “an opinion about the quality of another appraiser’s work as part of an appraisal review.”

The broader message to take from this discussion is to be careful when communicating with clients that you stay within your scope of work. If the scope of an appraisal review requires a value opinion, then it is necessary to comply with a much broader range of USPAP. In appraisals, as with appraisal reviews, it is professionally irresponsible to make value assertions that we cannot support. Without adequate documentation, it is also a violation of the licensing law and ultimately reflects poorly on the appraisal community.